

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1289 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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VARSHABEN RAJESHBHAI AMBALAL PATEL D/O BABULAL C PATEL

Versus

RAJESHBHAI AMBALAL PATEL

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Appearance:

PARTY-IN-PERSON for Petitioner  
MR JB DASTOOR for Respondent No. 1  
MR SV RAJU for Respondent No. 2  
Mr.G.A.Uraizee, A.G.P. for the State

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CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 25/10/96

ORAL JUDGEMENT

Varshaben Rajeshbhai Patel has filed this petition. By this petition she seeks to recall her husband Rajeshbhai Ambalal Patel from USA and she seeks impounding of the passport of respondents nos 2 and 3 who are her in law by alleging that they are likely to go out of India and thereby they would defeat her prosecution launched u/s 498A and 114 IPC.

2. Respondents nos 2 and 3 have stated in their affidavit in reply that they have no plan to go out of India and that they have not applied for any visa and they did not intend to go out of India. Therefore, in view of the said statement filed by them along with the affidavit, they prayed that their passport should not be impounded.

3. As regards the claim of the petitioner regarding respondent no.1 Rajeshbhai Ambalal Patel no order could be passed to recall him. If at all the respondent no.1 has absconded then she will have to move in the trial court for taking appropriate steps against him as an absconding accused.

4. No doubt accused no.2 and 3 have given their statement on affidavit that they have no plan to go out of India and they also stated that they will not go out of India till the final disposal of this case without prior permission of this court. In view of the peculiar facts and circumstances of the case, as the complainant petitioner is their daughter in law and she has registered a complaint for the alleged offence punishable under section 498A and 114 IPC and that her husband -son of the respondents nos 2 and 3 has already gone beyond the bounds of this court, it would be proper to direct the respondents nos 2 and 3 to deposit their passport with this court or with their banker till the final disposal of cri. case no.758/93 lying on the file of the Metropolitan Magistrate, Court no.9, Ahmedabad. Respondents no 2 and 3 will be at liberty to move this court when they are in need of the said passport and on considering their claim appropriate orders will be passed in case if they are in need of the said passports before the end of the trial. The respondents nos 2 and 3 should deposit their passport with the Head office of Ahmedabad District Co.Operative Bank Ltd, Ashram Road, Nr. Income-tax Office, Ahmedabad on or before 30.10.96 and said bank is to retain the said passport with it till the final disposal of cri. case no. 758/933 or till the further orders which ever event happens earlier.

5. A copy of this order be sent to the General Manager of the said bank with a direction to him to inform this court about the deposit of the passport by respondents nos 2 and 3.

6. In view of the deposit of the passport of respondent nos 2 and 3 I direct that the trial of cri.case no.758/93 be expedited by the learned

Magistrate. In case if he is not in a position to secure the presence of Rajeshbhai Ambalal Patel, he should separate the trial of the respondents nos. 2 and 3 from his trial and proceed to dispose of the case as early as possible and in any case before June 1997. The application is disposed of accordingly. Notice discharged.

(S.D.Pandit.J)